

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Adv. Pro. No. 10-04558 (SMB)

Plaintiff,

v.

DONALD J. WEISS,

Defendant.

**STIPULATION FOR WITHDRAWAL OF MOTION TO DISMISS, EXTENSION OF
ANSWER DATE, AND VOLUNTARY DISMISSAL OF CLAIMS**

The plaintiff, Irving H. Picard, trustee (“Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities (“BLMIS”) and the estate of Bernard L. Madoff, individually (“Madoff”), and Defendant Donald J. Weiss (“Defendant”), by and through their respective, undersigned counsel (collectively, the “Parties”), hereby stipulate and agree to the following:

1. On December 1, 2010, the Trustee filed and served the Complaint against Defendant in the above-captioned Adversary Proceeding in the Court.

2. On August 18, 2014, Defendant filed a Motion to Dismiss the Adversary Proceeding, arguing that section 546(e) of the Bankruptcy Code applies to this Adversary Proceeding and that the Adversary Proceeding should be stayed pending resolution of the Trustee's litigation against certain defendants the Trustee has alleged had knowledge of fraud.

3. On June 2, 2015, the Court issued the decision *Secs. Inv. Prot. Corp. v. Bernard L. Madoff Inv. Secs. LLC*, 531 B.R. 439 (Bankr. S.D.N.Y. 2015) ("the Omnibus Decision"). In the Omnibus Decision, the Court held that the Trustee was barred by section 546(e) of the Bankruptcy Code from recovering transfers beyond the two-year lookback period applicable to avoidance of transfers under section 548(a)(1)(A) of the Bankruptcy Code. The Court also permitted the Trustee to proceed with his remaining claims against the "good faith" defendants-movants.

4. On June 22, 2015, the Supreme Court of the United States denied *certiorari* of the Trustee's appeal of *SIPC v. Ida Fishman Revocable Trust*, 14-1128, and *Picard v. Ida Fishman Revocable Trust*, 14-1129.

5. The Parties stipulate that the Omnibus Decision applies in this Adversary Proceeding.

6. In accordance with Federal Rule of Civil Procedure 41(a)(1)(ii), made applicable to this Adversary Proceeding by Federal Rule of Bankruptcy 7041, the Parties hereby stipulate to a dismissal of Counts Two through Seven of the Complaint.

7. In light of the Omnibus Decision and the dismissal of Counts Two through Seven of the Complaint, the Defendant hereby withdraws the Motion to Dismiss.

8. The Defendant shall file his answer to the Trustee's Complaint sixty (60) days after the filing of this Stipulation.

9. This Stipulation shall have no effect on or application to the Trustee's remaining claim in Count One of the Complaint.

10. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

11. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

Dated: New York, New York
November 21, 2016

/s/ Keith R. Murphy
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Liquidation of Bernard L. Madoff
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